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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY: PM DEPUTY

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. CARISSA NORIEGA, Defendant.	Criminal Case No. 07CR3411 **FINDINGS OF FACT AND ORDER OF DETENTION**

In accordance with § 3142(f) of the Bail Reform Act of 1984 (18 U.S.C. § 3141 *et seq.*), this Court conducted a bond hearing on December 20, 2007, to determine whether the Court should re-consider its prior order that Carissa Noriega ("the Defendant") should be held in custody pending trial, on the grounds that she is a risk of flight. Assistant United States Attorney Charlotte E. Kaiser appeared on behalf of the United States. Michelle Betancourt, Esq. appeared on behalf of the Defendant.

Based on the evidence proffered by the United States, the Defendant, the Pretrial Services Report, and the Indictment, the Court concludes that the following facts establish by a preponderance of the evidence that no condition or combination of conditions will reasonably assure the appearance of the Defendant as required. Accordingly, the Court orders that the Defendant be detained pending trial.

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I.

FINDINGS OF FACT

A. Nature and Circumstances of the Offense Charged (18 U.S.C.§ 3142(g)(1))

1. The Defendant is charged in Criminal Case No. 07CR3411 with the importation approximately 26.13 kilograms (57.49 pounds) of cocaine in violation of 21 U.S.C. §§§ 841(a)(1), 952 and 960.

2. The charged offense is an offense for which a maximum term of imprisonment of ten years or more is prescribed in the Uniform Controlled Substances Act (21 U.S.C. § 801 *et seq.*). Thus, there arises a presumption that no condition or combination of conditions will reasonably assure the appearance of the Defendant as required. *See* 18 U.S.C. § 3142(e).

3. The offense carries with it a minimum mandatory ten year sentence and a maximum life sentence. *See* 21 U.S.C. § 960(b)(1)(B). The evidence presented in accordance with this factor weighs in favor of detention.

B. Weight of the Evidence Against the Defendant (18 U.S.C.§ 3142(g)(2))

1. On July 26, 2007, the Defendant was the driver and registered owner of a 1989 Nissan Maxima. The Defendant was accompanied by her three minor children as she entered the Andrade, California Port of Entry. The Primary Officer noticed the gas tank had a wet appearance and sounded solid when tapped. The Defendant, her children, and the vehicle were referred to the secondary inspection area. A Narcotic Detector Dog alerted agents to the rear seat of the vehicle. A subsequent search of the vehicle resulted in the discovery of 26.13 kilograms (57.49 pounds) of cocaine concealed in a non-factory compartment located in the gas tank of the vehicle. The United States maintains that the Defendant admitted knowledge to the presence of a controlled substance concealed in the vehicle, although the Defendant indicated that issue may be subject to dispute.

C. History and Characteristics of the Defendant (18 U.S.C.§ 3142(g)(3))

1. The Defendant is a United States Citizen.

2. The Defendant has not been employed since 2003.

3. The Defendant currently resides in Yuma, Arizona with her children. She previously

lived in Morelos, Mexico for two years. However, during that time she came to United States twice a day, five times per week to take her children to school.

4. The Defendant's mother resides in Yuma, Arizona.

D. **Nature and Seriousness of Danger Posed by Release (18 U.S.C. § 3142(g)(4))**

1. The United States proffered no evidence to suggest that release of the Defendant would pose a danger to any person in the community. The Defendant has the following criminal history:

03/30/06 -	11377(A) H&S Possess Controlled Substance - Diversion
09/30/04 -	Misdemeanor 488 PC Petty Theft - 14 days jail, 36 months probation, $320 fine
09/30/04 -	Count 1: Warrant 11377(A) H&S Possess Controlled Substance Count 2: Warrant 14601.1(A) VC Drive While License Suspend/etc. Count 3: Warrant 488 PC Petty Theft Count 4: Warrant 488 Petty Theft Count 5: Warrant 14601.1(A) VC Drive While License Suspend/etc.

II.

REASONS FOR DETENTION

A. There is probable cause to believe that the Defendant committed the offense charged in Criminal Case No. 07CR3411, to wit: the Importation of 26.13 kilograms (57.49 pounds) of cocaine in violation of 21 U.S.C. §§§ 841(a)(1), 952 and 960.

B. The Defendant faces a substantial period of time in custody if convicted of the offense charged in the Indictment. She therefore has a strong motive to flee.

C. The Defendant has not rebutted the presumption, based on the Court's findings that there is probable cause to believe that the Defendant committed an offense for which a maximum term of imprisonment of ten years or more is prescribed in the Controlled Substances Act (21 U.S.C. § 801 *et seq.*), that no condition or combination of conditions will reasonable assure the appearance of the Defendant at future court proceedings.

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III.

ORDER

IT IS HEREBY ORDERED that the Defendant be detained pending trial in this matter.

IT IS FURTHER ORDERED that the Defendant be committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The Defendant shall be afforded reasonable opportunity for private consultation with counsel.

While in custody, upon order of a court of the United States or upon the request of an attorney for the United States, the person in charge of the correctional facility shall deliver the Defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding or any other appearance stipulated to by defense and government counsel.

THIS ORDER IS ENTERED WITHOUT PREJUDICE.

IT IS SO ORDERED.

DATED: 1/3/08.

THE HONORABLE WILLIAM McCURINE, JR.
United States Magistrate Judge
United States District Court for the
Southern District of California

Prepared by:

KAREN P. HEWITT
United States Attorney

/s/Charlotte E. Kaiser
CHARLOTTE E. KAISER
Assistant United States Attorney

cc: Michelle Betancourt, Esq., Attorney for the Defendant